

**PLANNING AND ZONING COMMISSION  
MEETING MINUTES**

**September 27, 2004**

**MEMBERS PRESENT:** Mort Heidari, Cliff Aucter, Lori Spielman, Robert Hoffman, and Alternates James Prichard and Arlo Hoffman

**MEMBERS ABSENT:** Emery Zahner, Geri Kupecky, and Alternate Ronald Small

**STAFF PRESENT:** Matt Davis, Town Planner and Reanna Goodreau, Recording Secretary

**I. CALL TO ORDER**

Vice Chairman Aucter called the Planning & Zoning Commission (PZC) meeting to order at 7:04 PM at the Ellington Town Hall Annex Meeting Room, 57 Main Street, Ellington, CT and read the legal notice as it appeared in publication.

**II. PUBLIC COMMENTS:**

Ernie Boothroyd, Hare Road, came forward to express his concern with the zoning regulation that permits 14% driveways. He described several driveways off Somers Road that are under construction and that are eroding in the state highway. Mr. Boothroyd noted that many other towns use 8% as the maximum allowed.

**III. PUBLIC HEARINGS:**

**THE COMMISSION WENT OUT OF AGENDA ORDER.**

9. #Z200420—Ellington Planning & Zoning Commission for an amendment to the Ellington Zoning Regulations to create an “Age-Restricted Cluster Housing Zone” regulation.

**TIME:** 7:04 PM

**SEATED:** C. Aucter, L. Spielman, M. Heidari, R. Hoffman, A. Hoffman, J. Prichard

Vice Chairman Aucter explained that due the lengthy agenda, the fact that key members were not in attendance, and that some members did not have ample time to review the Age Restricted Cluster Housing Zone regulation, he would like to continue the regulation amendment hearing to a special meeting.

**BY CONSENSUS, THE COMMISSION SCHEDULED A SPECIAL MEETING FOR OCTOBER 5, 2004 AT 7:30 PM TO CONTINUE THE “AGE RESTRICTED CLUSTER HOUSING ZONE” REGULATION HEARING.**

8. #S200411 – Angel Trace, LLC for a 27-lot subdivision on properties located on Crystal Lake Road, APN 110-018-0000 & 109-009-0000 in a RA Zone

**TIME:** 7:06 PM

**SEATED:** C. Aucter, L. Spielman, M. Heidari, R. Hoffman, A. Hoffman, J. Prichard

Attorney Capossela, counsel for the applicants, came forward and explained that he had requested that this application be withdrawn due to issues with the health department. He stated that he would like to withdraw the request that the application be withdrawn. Attorney Capossela asked the commission to either table the item or open and continue the hearing so that they can address the health department issues.

**MOVED (R. HOFFMAN), SECONDED (SPIELMAN) AND PASSED UNANIMOUSLY TO TABLE THE OPENING OF THE PUBLIC HEARING PER THE APPLICANT'S REQUEST FOR #S200411– ANGEL TRACE, LLC & TO REQUIRE THAT THE APPLICANT SEND NOTICE TO THE ABUTTERS WITHIN 500' OF THE SUBJECT PROPERTIES WITHIN THE REQUIRED TIMEFRAME PRIOR TO THE MEETING DATE THAT THE HEARING WILL COMMENCE.**

1. #Z200421—Dale Cunningham for a special permit and site plan approval for a radio tower on property located at 3 South Road, APN 112-048-0000 in a RA-Zone.

**TIME:** 7:10 PM

**SEATED:** C. Aucter, L. Spielman, M. Heidari, R. Hoffman, A. Hoffman, J. Prichard

Dale Cunningham came forward and explained that he addressed staff comments. The tower size was reduced due to engineering concerns and building code issues.

Matt Davis, Town Planner, stated that his concerns were satisfied by the revised plans.

Vice Chairman Aucter noted that this is not a commercial tower and its use will benefit military families with members stationed overseas.

**MOVED (HEIDARI), SECONDED (SPIELMAN) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR #Z200421– DALE CUNNINGHAM.**

**MOVED (SPIELMAN), SECONDED (R. HOFFMAN) AND PASSED UNANIMOUSLY TO APPROVE #Z200421– DALE CUNNINGHAM BASED UPON REVISED PLANS SUBMITTED BY THE APPLICANT IN RESPONSE TO STAFF COMMENTS.**

2. #S200407—Gingras Development, LLC for a 20-lot subdivision on properties located on Crane Road, APN 060-002-0000 & 060-004-0000 in an A-Zone.

**TIME:** 7:20 PM

**SEATED:** C. Aucter, L. Spielman, M. Heidari, R. Hoffman, A. Hoffman, J. Prichard

Gerry Gingras, developer, came forward and gave an overview of existing conditions and the project. He noted that he is looking for a waiver to install sidewalks along Crane Road. Mr. Gingras stated that they have addressed all the Town Engineer's comments in his August memo, but that they just received another memo; he asked the commission to approve the application subject to addressing the Town Engineer's comments, stating that he believes he can address the issues from the September 27, 2004 memo.

Ernie Boothroyd, Hare Road, asked if the subdivision considered solar design.

There was a discussion between the commission members regarding the maintenance of the detention basins and sidewalks.

Matt Davis, Town Planner, reviewed the application timeframes and noted that the public hearing must be closed.

Gerry Gingras and Jerry Hardisty, project engineer, asked if the commission would approve the subdivision subject to meeting the Town Engineer's issues. Vice Chairman Aucter stated that it is very difficult to enforce approvals that are subject to meeting some requirement. Mr. Davis did not support a "conditional" action, noting that approach led to litigation in at least one previous submission.

**MOVED (SPIELMAN), SECONDED (R. HOFFMAN) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR #S200407– GINGRAS DEVELOPMENT, LLC.**

**MOVED (HEIDARI), SECONDED (R. HOFFMAN) AND FAILED (AYES: HEIDARI & R. HOFFMAN; NAYS: SPIELMAN, PRICHARD, & A. HOFFMAN; ABSTAINED: AUCTER) TO DENY #S200407– GINGRAS DEVELOPMENT, LLC.**

**MOVED (SPIELMAN), SECONDED (A. HOFFMAN) AND PASSED (AYES: SPIELMAN, PRICHARD, & A. HOFFMAN; NAYS: HEIDARI; ABSTAINED: R. HOFFMAN & AUCTER) TO CONTINUE #S200407– GINGRAS DEVELOPMENT, LLC TO THE OCTOBER 25, 2004 MEETING FOR DISCUSSION & POSSIBLE ACTION BASED ON INPUT FROM THE TOWN ENGINEER.**

3. #S200408 – Denise Rodrigue for a 5-lot resubdivision on property located on Ridge Drive, APN 066-005-0000 in an AA Zone.

**TIME:** 7:40 PM

**SEATED:** C. Aucter, L. Spielman, M. Heidari, R. Hoffman, A. Hoffman, J. Prichard

John Limberger, Jr. came forward on behalf of Denise Rodrigue, trustee, to explain the application. He noted that this resubdivision was previously approved, but it became void because the mylars were not filed in accordance with the state statute timeframes. He explained that the plans are the same as the previously approved plans.

Vice Chairman Aucter read the Town Engineer's letter dated September 27, 2004.

Ernie Boothroyd, Hare Road, discussed his concern with not showing drilled wells before receiving approvals from the PZC.

The commission discussed the well water issue. Matt Davis, Town Planner, noted that the North Central District Health Department is hired by the Town to be the town sanitarian. The commission agreed that the well water issue is a valid issue. Commissioner R. Hoffman asked if open space has been addressed and was told that it was taken care of in the first phase of the subdivision. Ernie Boothroyd noted that the original subdivision was approximately 50 acres and only 3.2 acres were deeded to the town. The members decided that they would like to look into the well issue and review the open space for adequacy.

**MOVED (R. HOFFMAN), SECONDED (HEIDARI) AND PASSED UNANIMOUSLY TO CONTINUE THE PUBLIC HEARING TO THE OCTOBER 25, 2004 MEETING FOR #S200408–DENISE RODRIGUE.**

**THE COMMISSION REVIEWED ITEMS 4 & 5 TOGETHER.**

4. #S200409 – Peter Sirois for William Kaiser for a three-lot subdivision on property located at 41 Newell Hill Road, APN 127-013-0000 in a RA Zone.
5. #Z200432 – Peter Sirois for William Kaiser for a special permit for one rear lot on property located at 41 Newell Hill Road, APN 127-013-0000 in a RA Zone.

**TIME:** 7:55 PM

**SEATED:** C. Aucter, L. Spielman, M. Heidari, R. Hoffman, A. Hoffman, J. Prichard

John Tarbox, surveyor for the applicant, came forward to review the application. Mr. Tarbox reviewed the existing site conditions and the proposal. He explained that it is a 3-lot subdivision on approximately 5 acres of land. There will be one rear lot and there is one existing house lot. Mr. Tarbox stated that they went before the Conservation Commission and it was their recommendation to request a fee in-lieu of open space; they have had an appraisal done. He noted that they have provided an easement over an existing catch basin and provided a 50' right of way over Newell Hill Road.

Vice Chairman Aucter asked if they would be willing to include a stipulation in the deed regarding driveway maintenance of the common driveway and was told yes. He read the Town Engineer's letter dated September 27, 2004 and the North Central District Health Department approval letter.

Ernie Boothroyd, Hare Road, expressed concern again with the well water issue.

**MOVED (HEIDARI), SECONDED (PRICHARD) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR #S200409 & #Z200432–PETER SIROIS.**

**MOVED (R. HOFFMAN), SECONDED (HEIDARI) AND PASSED UNANIMOUSLY TO APPROVE WITH CONDITIONS #S200409 & #Z200432–PETER SIROIS.**

**CONDITIONS: 1) SUBJECT TO THE REQUIREMENTS IN THE TOWN ENGINEER'S LETTER DATED 9/27/04 & 2) THAT THE DEEDS FOR THE LOTS WITH THE COMMON DRIVEWAYS INCLUDE STIPULATIONS TO ASSURE DRIVEWAY MAINTENANCE.**

6. #S200410 – Christopher E. DeAnn C. Yanaros for a 7-lot subdivision on property located at 27 Ladd Road, APN 131-001-0000 in a RA Zone.

**TIME:** 8:20 PM

**SEATED:** C. Aucter, L. Spielman, M. Heidari, R. Hoffman, A. Hoffman, J. Prichard

Attorney Evans, counsel for the applicant, came forward to give an overview of the proposal. He explained that it is a 20.5 acre parcel with approximately 2,000' of frontage. It is a 7-lot subdivision with one existing home on one lot, with all lots as frontage lots.

Galen Semperbon, professional engineer for the applicant, reviewed the site layout. He explained the water quality/detention basin. He noted that the Conservation Commission requested that the

open space be provided along Aborn Brook and explained that there is also a conservation easement encompassing wetland areas not included in the open space.

Ernie Boothroyd, Hare Road, expressed his concerns about availability of well water. Some audience members agreed with Mr. Boothroyd's concerns and others disagreed. The public also had concerns about the safety of having their children walk to the school bus on this road.

Attorney Rattigan, counsel for Brian Mills, noted that they are appealing the Inland Wetlands Agency decision to approve the subdivision, stated that the subdivision application fails for several reasons, and submitted exhibits for the record.

Brian Mills, 18 Ladd Road, showed a video of existing road conditions and Attorney Rattigan showed photographs of the road for the record.

Attorney Evans explained that this use is permitted in this zone and the lots are in compliance. He noted that since they are only adding 6 new houses that a traffic study is not necessary.

Mr. Semperbon further explained the drainage systems and the roadway issues. He noted that they have given an easement for possible future widening of the road. He also explained that it would be difficult to install sidewalks.

The commissioners decided that they would like to have input from the Town Attorney, Public Works Director and Town Engineer about the sidewalk issue, regulation interpretations, and plans for Ladd Road, and input from the Crystal Lake Fire Department chief about the ability to get emergency equipment to the proposed lots.

**MOVED (A. HOFFMAN), SECONDED (SPIELMAN) AND PASSED UNANIMOUSLY TO CONTINUE THE PUBLIC HEARING TO THE OCTOBER 25, 2004 MEETING FOR #S200410–CHRISTOPHER E. & DEANN C. YANAROS.**

7. #Z200433 – Great Country Garages for special permit and site plan approval for retail sales on property located at 210 West Road, APN 037-002-0000 in a PC Zone.

**TIME:** 9:55 PM

**SEATED:** C. Aucter, L. Spielman, M. Heidari, R. Hoffman, A. Hoffman, J. Prichard

Attorney Capossela, counsel for the applicant, noted the location of the proposal and explained that it was a 2.49 acre parcel in the PC-Zone. The Inland Wetlands Agency has issued its approval.

Jay Ussery, surveyor for the applicant, gave an overview of the proposal. He reviewed the parking calculations, lighting, drainage, grading, landscaping, and signage. Mr. Ussery noted that they do not have specifics for the signage at this time. He noted that he had a memo received today from the Town Engineer, but that it was dated March 12, 2004; he believes that the letter should be dated September 27, 2004.

Attorney Capossela stated that he does not believe that the displays fall under the definition of structure and that they should not be required to observe the setbacks. He also noted that the applicant will be coming before the commission in the near future because they are planning to buy more land to include construction of the structures on-site.

The commission had a lengthy about the display area setback from the street. They also discussed their concerns about the occasional temporary lighting on displays.

Mr. Davis pointed out that the PZC has the ability to interpret its regulations, but also that as a special permit use, the PZC also has the right to consider the criteria in Section 4.1f, and attach conditions on the approval as necessary.

**MOVED (R. HOFFMAN), SECONDED (SPIELMAN) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR #Z200433–GREAT COUNTRY GARAGES.**

**MOVED (A. HOFFMAN), SECONDED (SPIELMAN) AND PASSED UNANIMOUSLY TO APPROVE WITH MODIFICATIONS & CONDITIONS #Z200433–GREAT COUNTRY GARAGES. MODIFICATIONS & CONDITIONS:**

- 1) DISPLAY ITEMS MAY BE NO CLOSER THAN 30 FEET TO THE FRONT PROPERTY LINE;**
- 2) THE FRONT DISPLAY AREA MUST BE DEFINED ON THE SITE PLAN;**
- 3) THE REAR STORAGE AREA MUST BE DEFINED ON THE SITE PLAN;**
- 4) BUILDINGS IN THE DISPLAY AREA MUST HAVE A MINIMUM OF 5 FEET SEPARATION;**
- 5) NO LIGHTING OFF-SITE.**

#### **IV. NEW BUSINESS:**

**THE COMMISSION WENT OUT OF AGENDA ORDER.**

4. CGS 8-24 Review of a portion of School House Road to be deeded to the Town of Ellington from Caravella Associates.

Matt Davis, Town Planner, explained the request.

**MOVED (HEIDARI), SECONDED (R. HOFFMAN) AND PASSED UNANIMOUSLY TO RECOMMEND THE ACCEPTANCE OF THE PORTION OF SCHOOL HOUSE ROAD TO THE BOARD OF SELECTMEN PER SUBDIVISION APPROVAL #S200315.**

5. CGS 8-24 Review of the sewer line to be extended to the Ellington Airport.

Pam Lombardo, WPCA Administrator, came forward to explain the request. She stated that the project, which will cost \$2,000,000, would help encourage industrial and commercial growth in the airport area. She noted that they have received a \$500,000 grant from the State, which they are trying to reinstate. Mrs. Lombardo explained the specifics of the sewer line and service area.

**MOVED (A. HOFFMAN), SECONDED (SPIELMAN) AND PASSED UNANIMOUSLY TO RECOMMEND AFFIRMATIVE 8-24 APPROVAL TO THE BOARD OF SELECTMEN PURSUANT TO THE ATTACHED MOTION.**

3. Santini Homes request for a 90-day extension to file subdivision mylars for Gasek Farms III.

**MOVED (HEIDARI), SECONDED (R. HOFFMAN) AND PASSED UNANIMOUSLY TO GRANT A 90-DAY EXTENSION FOR SANTINI HOMES TO FILE SUBDIVISION MYLARS FOR GASEK FARMS III.**

6. Review of the Carriage Crossing Subdivision in Tolland.

The commission briefly reviewed this item with the Town Planner.

**THE COMMISSION TABLED THIS ITEM TO THE OCTOBER 25, 2004 MEETING.**

1. Santini Homes request for CGS – 8-24 regarding acceptance of Gasek Farms I and bond reduction.

**THE COMMISSION TABLED THIS ITEM TO THE OCTOBER 25, 2004 MEETING.**

2. Santini Homes request for a bond reduction for Ellridge Place II.

**THE COMMISSION TABLED THIS ITEM TO THE OCTOBER 25, 2004 MEETING.**

**VI. ADMINISTRATIVE BUSINESS:**

**THE COMMISSION WENT OUT OF AGENDA ORDER.**

**THE COMMISSION REVIEWED ITEMS 2 & 3 TOGETHER.**

2. Discussion of the Build Out Report (transmittal from the First Selectman).

Vice Chairman Aucter requested a brief summary from the Planner of the project status and related actions. Mr. Davis reviewed the approved project work program, noting that the committee had completed its work in April and sent the report to the BOS for review and direction. The BOS decided to send the report out to the agencies for review instead, and that is why it is on the agenda. Mr. Aucter inquired about steps the First Selectman has taken to implement the report. The Planner noted that the First Selectman had required him to meet in February of 2004 with representatives of Purcell Associates, a engineering firm from Glastonbury, Connecticut to give them a “head start” on drafting zoning, subdivision and other regulation changes. The First Selectman also directed the Planner to request \$60,000 in the 2004-2005 fiscal year budget for this work, and to provide Purcell engineers with copies of the current Plan of Conservation & Development, zoning regulations, subdivision regulations, inland wetlands regulations, draft of the Build-Out Report recommendations, the Planner’s December 2003 DRB memo, and the findings from the Crystal Lake study. The Planner felt that this was premature and a policy matter that was under the purview of the agencies. Mr. Davis indicated that he had not heard from Purcell since a follow-up meeting was canceled in March 2004, until the First Selectman asked him on September 13, 2004 to review a quote Purcell had submitted to the First Selectman, to update the zoning regulations. The Planner received that quote (dated June 16, 2004) from the First Selectman on September 14, 2004 and replied in writing to the First Selectman as requested, on September 15, 2004.

Vice Chairman Aucter was very disturbed by the First Selectman’s actions in soliciting this quote, and in not making the Planner or the PZC aware of its existence until now. He felt this was a serious attempt to usurp the PZC’s authority and noted that the PZC Chairman shared these serious concerns. The Planner noted that the First Selectman was anxious to receive agency comments. It was the commission’s consensus to place the matter on its October 5, 2004 special meeting agenda for discussion.

**THE COMMISSION REQUESTED THAT THIS ITEM BE PLACED ON THE OCTOBER 5, 2004 SPECIAL MEETING AGENDA.**

3. Discussion re: Design Review Board (DRB)

The members noted receipt of items f, h, and I under correspondence. Members expressed their dissatisfaction with creating a new board and how that will potentially affect the PZC's operations and subjects under their authority. Members directed the Planner to draft amendments to the special permit criteria, expressly authorizing design review by the PZC with respect to architecture, landscaping, signage, and lighting, and to have said draft on the October 5, 2004 special meeting agenda.

**THE COMMISSION REQUESTED THAT THIS ITEM BE PLACED ON THE OCTOBER 25, 2004 MEETING AGENDA.**

4. Approval of Meeting Minutes:
- a. August 23, 2004 meeting minutes.
  - b. August 30, 2004 special meeting minutes.

**MOVED (A. HOFFMAN), SECONDED (HEIDARI) AND PASSED UNANIMOUSLY TO APPROVE THE AUGUST 23, 2004 MEETING MINUTES AND THE AUGUST 30, 2004 SPECIAL MEETING MINUTES.**

1. Discussion of "CenterEdge"

**THE COMMISSION TABLED THIS ITEM TO THE OCTOBER 25, 2004 MEETING.**

5. Correspondence:
- a. Memo to Jim Gage from Dennis Milanovich dated 8/18/04.
  - b. Letter to Dennis Milanovich from State of Connecticut DEP dated 8/26/04.
  - c. Memo to Dennis Milanovich from Matt Davis dated 9/8/04.
  - d. Memo to Dennis Milanovich from Matt Davis dated 9/13/04.
  - e. Office Hours Report & Memo dated 9/13/04.
  - f. Ad Hoc Design Review Board Special Meeting Minutes & Agenda
  - g. Letter to Richard Krissinger from Matt Davis dated 9/17/04.
  - h. Memo to the BOS from the EDC dated 9/17/04.
  - i. Letter to BOS from Ken LaForge dated 9/20/04.
  - j. Connecticut Town & City, July-August 2004.
  - k. Local Governments: Creating Community Momentum.

**RECEIPT NOTED.**

**VII. ADJOURNMENT:**

**MOVED (HEIDARI) SECONDED (SPIELMAN) AND PASSED UNANIMOUSLY TO ADJOURN THE MEETING AT 11:30 PM.**

Respectfully Submitted,

Reanna Goodreau  
Recording Secretary